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10/749,523	01/02/2004	Aldo Y. Guloy	23700.00	8699
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LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			EXAMINER DANIELS, MATTHEW J	
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			1791	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,523

Applicant(s)

GULOY, ALDO Y.

Examiner

Matthew J. Daniels

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,14 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,9-13,15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Rejections set forth previously are withdrawn in view of the amended claims.
2. **Claims 1, 9 and 20** are rejected under 35 U.S.C. 102(b) as being anticipated by Best (USPN 3290418). **As to Claim 1**, Best teaches a method of manufacturing an article which could be used as a decorative flower pot having an outer peripheral surface with embossed decorations (Fig. 1, item 38), comprising the steps of:

forming a female mold cavity of an article which could be used as a flower pot (Fig. 1), the mold cavity having walls (Fig. 1, item 38, 5:68), a bottom (Fig. 2, item 12, 5:68) and contours disposed on said walls (Fig. 1, item 38), said contours corresponding to a desired embossed design, the bottom of the mold cavity having a substantially planar surface (Fig. 2);

clamping a plastic sheet in a frame and heating said plastic sheet (9:69-10:5, “Heaters...are well known...” at 10:2-3, “The same is, or course, true of the clamp frames.” At 10:4-5); and

vacuum forming a plastic flower pot in the mold (5:38-75), the article having embossed decorations on the outer peripheral surface (inherent) and a substantially planar outer bottom surface (Fig. 2), wherein the vacuum-forming step further consists of the step of removing air from said mold cavity by applying a vacuum in order to force the heated plastic sheet against the walls and contours of said mold cavity (“...one of two ways, namely, evacuate the air...” at 5:43-45), thereby forming an article which could be used as a flower pot having an embossed design on the outer peripheral surface of said flower pot solely by said vacuum.

As to **Claim 9**, the articles produced by the Best method inherently have a plurality of sides and contours (compare Best, Figs. 1, 2, 9 to instant Fig. 1B). As to **Claim 20**, the forming of the planar outer bottom surface is imperforate in Best (Fig. 2).

3. **Claim 4** is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Best (USPN 3290418). As to **Claim 4**, although Best does not explicitly teach an “elastic state”, it is submitted that the sheet of Best is inherently elastic when placed in the frame over the female mold cavity (9:69-10:35). In the alternative, it would have been prima facie obvious to optimize the temperature of the sheet in order to provide the desired vacuum forming action described at 10:2-20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim rejections set forth previously under this section are withdrawn in view of the amended claims.

5. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Best (USPN 3290418) in view of Gravely (USPN 2015669)). Best teaches the subject matter of Claim 1 above under 35 USC 102(b). **As to Claim 5**, Best is silent to the claimed rotational offset printing process. However, Gravely teaches rotational offset printing onto shaped articles, and further that the offset printing method are the preferred method (Page 2, right column, lines 56-66). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Gravely into that of Best because (a) one would have been motivated to decorate the articles of Best and (b) the offset printing process lends itself to large scale automatic or semi-automatic machine operations, which would increase the efficiency of the method of Best by replacing hand decoration operations.

6. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Best (USPN 3290418) in view of Renner (USPN 2355559). Best teaches the subject matter of Claim 1 above under 35 USC 102(b). **As to Claim 7**, Best is silent to steps of forming an embossed wrapper and bonding the wrapper to the article. However, wrappers for articles, and particularly for articles which are to be used as flower pots, are conventional. For example, Renner teaches

forming an embossed wrapper (Fig. 1) having an inner surface and decorative outer surface, the embossed design being substantially identical to the embossed decorations on the flower pot (Fig. 1, item 23), and the decorative outer surface conforming to the article (page 2, left col., line 70 to right col., Line 15 and page 2 right col., lines 62-70). Renner also teaches bonding the inner surface of said wrapper to at least a portion of the outer peripheral surface of said flower pot (page 3, left col., lines 13-18, fig. 1, and page 2, left col., lines 35-52). The decorative design of Renner is undistorted by forming processes (Figs. 1, 3, and 4). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Renner into that of Best because Best provides containers and Renner teaches that it is desirable to improve the appearance of containers by providing a decorative cover (Renner, page 1, left col., lines 1-55).

7. **Claims 10-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Best (USPN 3290418) in view of Renner (USPN 2355559). **As to Claim 10**, Best teaches a method of providing an article which could be used as a flower pot with a decorative exterior, comprising the steps of:

vacuum forming an article which could be used as a plastic flower pot having an outer peripheral surface and a substantially flat outer bottom surface (Fig. 2, Fig. 9), wherein the vacuum forming step consists of the step of providing a mold cavity with a plastic sheet located across the opening of the mold cavity and removing air from said mold cavity by applying a

vacuum in order to force the plastic sheet against the walls of said mold cavity, thereby forming a plastic flower pot solely by said vacuum;

Best is silent to (a) forming a wrapper having an inner surface and a decorative outer surface, and (b) bonding the inner surface of said wrapper to at least a portion of the outer peripheral surface of said flower pot.

However, wrappers for articles, and particularly for articles which are to be used as flower pots, are conventional. For example, Renner teaches (a) forming a wrapper having an inner surface and a decorative outer surface (Fig. 1), and (b) bonding the inner surface of said wrapper to at least a portion of the outer peripheral surface of said flower pot (page 3, left col., lines 13-18, fig. 1, and page 2, left col., lines 35-52).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Renner into that of Best because Best provides containers and Renner teaches that it is desirable to improve the appearance of containers by providing a cover (Renner, page 1, left col., lines 1-55).

As to Claim 11, the step of vacuum forming disclosed by Best provides an embossed design on the outer peripheral surface of the article (Figs. 1, 2, and 9). **As to Claim 12**, Renner provides a step of embossing a design on at least a portion of the outer surface of the wrapper (Fig. 3, item 23 and Fig. 2, for example) which would further improve the decorative effect and motivating one to make the combination. **As to Claim 13**, Best teaches a plurality of sides and contours (compare Figs. 1, 2, and 9 of Best to instant Fig. 1B). Additionally, it would be prima facie obvious to vary the shape or aesthetic appearance of the resulting article. See MPEP 2144.04(I) and (IV).

8. **Claims 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Best (USPN 3290418) in view of Snyder (USPN 3225461). **As to Claim 15**, Best teaches a method of forming an article which could be used as a flower pot comprising the steps of:

Providing a plastic sheet having an upper surface and lower surface (Fig. 2, sheet in mold);

Forming a female mold cavity of the article which could be used as a flower pot, the mold cavity having walls, contours, and a substantially planar bottom surface (Figs. 1-9);

Clamping the plastic sheet in a frame (9:69-10:5);

Heating the plastic substrate (9:69-10:5);

Placing the plastic sheet and frame over the female mold cavity while the sheet is in an elastic state (9:69-10:35);

Removing the air from the mold cavity by a vacuum process (5:38-75, forcing the heated plastic sheet against the walls and contours of the mold cavity (Figs. 1-9);

Whereby the article which could be used as a plastic flower pot is formed with a desired pattern on the outer peripheral surface of the article and having a substantially flat outer bottom surface (Fig. 2).

Best is silent to a step of forming a compressed image on at least a portion of the lower surface of the plastic sheet, the image being a visually distorted representation of a desired pattern. However, Snyder teaches substantially the same method comprising:

Providing a plastic sheet having upper and lower surfaces (Figs. 1 and 2);

Forming a compressed image on at least a portion of the lower surface, the image being a visually distorted representation of a desired pattern (3:15-20);

Forming a female mold cavity of the article, the article having walls, contours, and a bottom surface (Fig. 1);

Clamping the plastic sheet in a frame (Fig. 2);

Heating the sheet (4:45-75)

Placing the plastic sheet and frame over the female mold cavity in an elastic state (3:45-75);

Removing the air by a vacuum forming process, forcing the heated plastic sheet against the walls and contours of the mold cavity (Fig. 2),

Whereby an article is formed having an undistorted image of a desired pattern on the outer peripheral surface (Fig. 5).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Snyder into that of Best because designs and indicia are known to be provided to the outside of containers and because Snyder's method would provide an undistorted design or indicia to the outside of the article of Best.

As to Claim 17, Snyder compensates for distortion undergone when stretched (3:15-20).

9. **Claims 18 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Best (USPN 3290418) in view of Snyder (USPN 3225461), and further in view of Knoll (USPN

3458614). Best and Snyder teach the subject matter of Claim 15 above under 35 USC 103(a).

As to Claims 18 and 19, Best is silent to the claimed grid approach. However, when providing a compressed image to a thermoformed article, such as in the method of Snyder, it is known to provide a grid pattern and overlay the grip pattern in the manner claimed. For example, Knoll teaches imprinting a grid on a plastic template sheet (3:45-70, 5:52-6:58), the grid having identifiable sections, and vacuum forming the sheet (2:1-20), distorting the sheet and grid. Knoll further employs the template by overlaying it on an article having the desired pattern, and determining each grid section color (5:67-6:58). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Knoll into that of Best because designs and indicia are known to be provided to the outside of containers and because Knoll's method would provide an undistorted design or indicia to the outside of the article of Best. Furthermore, Knoll's method would provide a simple method for rapidly determining the degree of distortion required to mold shapes accurately registered with the structure or contour.

Response to Arguments

10. Applicant's arguments filed 12 July 2007 have been fully considered but they are not persuasive or are moot in view of the new grounds of rejection set forth above. The argument appears to be on the following grounds:

a) Allen discloses a plunger which first axially deforms the plastic sheet. The independent claims now (all) recite the vacuum forming step being performed consisting of applying vacuum wherein the pot is formed solely by vacuum.

11. These arguments are not persuasive for the following reasons:

a) Vacuum forming is conventional in the art even without a plunger (plug-assist) mechanism.

This argument is moot in view of the new reference to Best applied above, which does not provide any plug assist mechanism.

Subject matter of the dependent claims has not been particularly argued separately from their dependence upon the independent claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 11/12/07


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER